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February 4, 2005

TO: Examiner El Chanti
Group Art Unit 2157
Application No. 09/456,894
Fax #: 703-872-9306

Company: U.S. Patent Office
City/State: Alexandria, VA

MAIL STOP AMENDMENT

FROM: Steven P. Wigmore

5551

Our Ref. #: 05456.105030

NUMBER OF PAGES (including transmittal sheet): 7

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Notes/Comments:

Documents Submitted Via Facsimile:

Applicant: Clinton Edward Lum

Serial No.: 09/456,894

Filed: December 7, 1999

For: A Method and Apparatus for Remote Installation of Network Drivers and Software

Papers Submitted: Amendment Transmittal with duplicate(2-pgs.) ; Response to Written Restriction Requirement (4-pgs.)

3674506 v1

PATENTS

IN THE U.S. PATENT AND TRADEMARK OFFICE

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FEB 04 2005

In re application of:

Docket No. 05456.105030

Clinton Edward Lum

Art Unit 2157

Serial No.: 09/456,894

Filed: December 7, 1999

Examiner: El Chanti

For: A Method and Apparatus for Remote
Installation of Network Drivers and Software

Confirmation No.: 7047

February 4, 2005

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are papers in the above-identified application.

- ☒ Response to Written Restriction Requirement.
☒ An additional fee is not required.
☐ The additional fee is calculated as shown below:

					SMALL ENTITY		LARGE ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE	RATE	ADDIT. FEE
TOTAL	52	MINUS	58=	0	x25	\$0	x50	\$0
INDEP.	14	MINUS	14=	0	x100	\$0	x200	\$0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					+180	\$	+360	\$0
TOTAL ADDITIONAL FEE						\$0	\$0	

- ☒ The Commissioner is hereby authorized to charge any additional fees required under 37 CFR § 1.16, or to credit any overpayment to Deposit Account No. 11-0980. A duplicate of this sheet is enclosed.

I hereby certify that this correspondence is being facsimile transmitted to Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, Attn: Examiner El Chanti, GAU 2157, Facsimile No. (703) 872-9306 on February 4, 2005.


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By: 
Steven P. Wignore, Reg. No. 40,447

DUPLICATE

PATENTS

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of:

Docket No. 05456.105030

**RECEIVED
CENTRAL FAX CENTER****Clinton Edward Lum**

Art Unit 2157

FEB 04 2005

Serial No.: 09/456,894

Filed: **December 7, 1999**Examiner: **El Chanti**For: **A Method and Apparatus for Remote
Installation of Network Drivers and Software**Confirmation No.: **7047**

February 4, 2005

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**DUPLICATE**

Sir:

Transmitted herewith are papers in the above-identified application.

- ☒ Response to Written Restriction Requirement.
☒ An additional fee is not required.
☐ The additional fee is calculated as shown below:

					SMALL ENTITY		LARGE ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE	RATE	ADDIT. FEE
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Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RECEIVED
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FEB 04 2005**

In re Application of:

Clinton Edward Lum

Serial No.: **09/456,894**

Filing Date: **December 7, 1999**

Title: **A Method and Apparatus
for Remote Installation of
Network Drivers and Software**

Art Unit: **2157**

Examiner: **El Chanti**

Confirmation No.: **7047**

RESPONSE TO WRITTEN RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

February 4, 2005

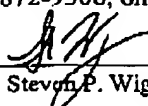
Sir:

In response to the Restriction Requirement mailed on January 13, 2005, please re-examine and reconsider the application in view of this election and the appended remarks.

ELECTION

The Applicant hereby elects Group I for prosecution that corresponds to Claims 1-26 and 28-29 in the present application. This election is made WITH TRAVERSE.

I hereby certify that this correspondence is being facsimile transmitted to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Attention: Examiner El Chanti, GAU 2157, Facsimile No. 703-872-9306, on February 4, 2005.


Steven P. Wigmore, Reg. No. 40,447

Serial No. 09/456,894

REMARKS

The Applicant and the undersigned thank Examiner El Chanti for the careful review of this application. Claims 1-26, 28, 29, 33-40, 42-53, and 55-57 are pending in this application and are subject to the restriction requirement imposed by the Examiner on January 13, 2005. Claims 1, 11, 18, 23, 26, 28, 30, 34, 38, 42, 45, 48, 51, and 55 are the independent claims in this application. The Applicant has elected Group I with traverse.

The Examiner has divided the claims into three groups as follows:

Groups	Relevant Claims	Class
Group I	1-26 and 28-29	709
Group II	30, 33, 51-53, and 55-57	709
Group III	34-40 and 42-50	709

Request for Reconsideration of the Election of Restriction Requirement

In the Restriction Requirement of January 13, 2005, the Examiner states that the inventions in the present application are related as subcombinations useable together in a single combination. The Examiner further states the subcombinations are distinct from each other if they are shown to be separately useable. The Examiner goes on to provide examples of separate utility for the Group II and Group III claims. Applicant traverses the Restriction Requirement asserted by the Examiner in the present application.

The Applicant traverses the Restriction Requirement for at least two reasons: (1) the classification and field of search for all of the Claim Groups will be the same as evidenced by the Examiner's classification of the Claim Groups listed above and mentioned in paragraph 2 of the January 13th Restriction Requirement; and (2) examination of the entire application can be made by the Examiner without serious burden.

Regarding the first reason why the Applicant traverses this Restriction Requirement, the Applicant notes that Manual of Patent Examining Procedure (M.P.E.P.) clearly states that when the classification is the same for related inventions and when the field of search is also the same for related inventions, then restriction is not proper. Specifically, M.P.E.P. § 808.02, last paragraph, page 800-48, (2001) states the following:

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“Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions.” [Emphasis supplied.]

The Examiner states that Claim Group I describes an invention that is classified in Class 709, Subclass 220. Meanwhile, the Examiner states that Claim Group II describes an invention that is classified in Class 709, Subclass 226. And the Examiner states that Claim Group III describes an invention that is classified in Class 709, Subclass 228.

It is apparent that these inventions have the exact same classification in Class 709 and that a field of search of one invention would include at least one of the other related inventions. In light of these facts, the Applicant submits that the Examiner has no reasons for dividing these related inventions as clearly supported by M.P.E.P. § 808.02 quoted above.

Regarding the second reason why the Applicant traverses this Restriction Requirement, as clearly set forth in the third paragraph of M.P.E.P. § 803 on page 800-4, an Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. M.P.E.P. § 803 explains that a restriction is proper when two criteria are present:

1. The inventions must be independent or distinct as claimed; and
2. There must be a serious burden on the Examiner if the restriction is not required.

Applicant respectfully submits that three distinct inventions is not a serious burden to consider all of the claims in a single application. As noted above, the search of one Claim group in this case will include the search of at least another of the Claim groups as evidenced by the exact same classification that the Examiner uses in the Restriction Requirement. Therefore, the Applicant respectfully submits that the Restriction Requirement is improper and request that the requirement be withdrawn.

But in order to be responsive to the requirement, Applicant has elected, WITH TRAVERSE, the Group I to be examined in the present application. The Examiner is respectfully requested to reconsider his Restriction Requirement and act on all of the claims in the present application. If the Examiner does persist in his restriction requirement, Applicant

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reserves the right to file a petition and/or to file a divisional application directed to Groups II and III at a later date if they so desire.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed on January 13, 2005. The Applicant and the undersigned thank Examiner El Chanti for the consideration of these remarks. The Applicant has submitted remarks to traverse the restriction requirement. Examination of all the claims of record is hereby courteously solicited.

If the Examiner believes that there are any issues that can be resolved by telephone conference, or that there are any formalities that can be corrected by an Examiner's Amendment, please contact the undersigned in the Atlanta Metropolitan Area at (404) 572-2884.

Respectfully submitted,



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K&S Docket No. 05456-105030